IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

R. ALEXANDER ACOSTA, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, Plaintiff, v. WASHINGTON SQUARE RESTAURANT PARTNERS, LP, dba TALULA'S GARDEN, and AIMEE OLEXY, an individual, Defendants.	)	Civil Action No. ________

COMPLAINT

Plaintiff, R. Alexander Acosta, Secretary of Labor, United States Department of Labor ("Plaintiff") brings this action to enjoin Washington Square Restaurant Partners, LP, dba Talula's Garden, and Aimee Olexy, an individual manager and owner of Talula's Garden (collectively, "Defendants"), from violating the provisions of Sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* ("the FLSA"), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages.

1. Jurisdiction of this action is conferred upon the Court by Section 17 of the FLSA, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendant Washington Square Restaurant Partners, LP, dba Talula's Garden, is a limited liability company duly organized under the laws of the Commonwealth of Pennsylvania, with a registered office at 134 Market Street, Philadelphia, Pennsylvania 19106. Defendant

operates Talula's Garden, a restaurant specializing in seasonal American food, located at 201 West Washington Square, Philadelphia, Pennsylvania 19106, within the jurisdiction of this Court.

3. Defendant Aimee Olexy owns 30% of Washington Square Restaurant Partners, dba Talula's Garden ("Talula's Garden"), which has its principal office and place of business within the jurisdiction of this Court. Defendant Olexy acts as an on-site manager of Talula's Garden, where she has directed employment practices and has directly acted in the interest of Talula's Garden in relation to its employees at all times relevant herein, including hiring and firing employees, setting employees' conditions of employment, including schedules and the rates and methods of compensation, distributing weekly payroll, and supervising employees day-to-day. At all relevant times herein, Defendant Olexy was responsible for making, keeping, and preserving records of Talula's Garden employees, including employees' names, hours of work, rate of compensation, and total compensation.

4. Defendants have employed and are employing employees in and about their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce, including meat, seafood, produce, and alcohol. The enterprise has had an annual gross volume of sales made or business done in an amount not less than $500,000.00. Therefore, the employees of Defendants are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1)(A) of the Act.

5. During the time period from at least May 12, 2014, through approximately September 18, 2016 (the "relevant time period"), Defendants failed to compensate their

employees, including line cooks, servers, and bartenders, who worked more than 40 hours in a workweek, at one and one-half times their regular rate of pay.

6. During the relevant time period, line cooks were required to start working approximately three hours before their paid shifts began. Workweeks for many line cooks ranged from 40 to 80 hours, but these employees did not receive time and one-half their regular rate for their unpaid, pre-shift work. In overtime workweeks, line cooks are owed one and one-half times their regular rate of pay for this unpaid work.

7. During the relevant time period, Defendants also required servers and bartenders in many instances to perform about 30 minutes of unpaid work before their paid shifts began. This unpaid pre-shift work sometimes put the weekly total hours worked by servers and bartenders above 40, entitling them to an overtime premium.

8. Defendants therefore violated the provisions of Sections 7 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer that those prescribed in Section 7 of the Act without compensating said employees for employment in excess of the prescribed hours at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

9. The unpaid pre-shift work performed by servers and bartenders also resulted in their regular rate for those shifts falling below $7.25 per hour.

10. Defendants therefore violated the provisions of Sections 6 and 15(a)(2) of the Act by employing servers and bartenders in an enterprise engaged in commerce or in the production of goods for commerce and compensating these employees at rates less than the applicable

statutory minimum rate prescribed in Section 6 of the Act. Therefore, Defendants are liable for unpaid minimum wages and an equal amount of liquidated damages under Section 16(c) of the Act.

11. Defendants violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendants failed to make, keep, and preserve adequate and accurate records of their employees, which they maintained as prescribed by the regulations issued and found at 29 C.F.R. Part 516. Specifically, Defendants failed to make, keep, and preserve records of the pre-shift work performed by their line cooks, servers, and bartenders on a daily and weekly basis.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

(1) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and

(2) For judgment pursuant to Section 16(c) of the Act finding Defendants liable for unpaid minimum wage and overtime compensation due to certain of Defendants' current and former employees listed in the attached Schedule A for the period of May 12, 2014, through September 18, 2016, and for an equal amount due to certain of Defendant's current and former employees in liquidated damages. Additional back wages and liquidated damages may also be owed to certain present and former employees listed in the attached Schedule A for any violations continuing after September 18, 2016. Additional amounts of back wages and liquidated damages may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint; or

(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

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